



— State of —  
**North Dakota**  
*Office of the Governor*

**John Hoeven**  
*Governor*

**EXECUTIVE ORDER 2009-17**

**WHEREAS**, On October 24, 2009, President Obama signed a proclamation declaring the 2009 H1N1 influenza pandemic a National Emergency; and

**WHEREAS**, On October 27, 2009, Secretary Kathleen Sebelius issued a Section 1135 waiver lifting certain requirements of 42 U.S.C. § 1320b-5, the Social Security Act; and

**WHEREAS**, as a State we have prepared at all levels of government and as individuals and communities we have taken steps to address the emerging 2009 H1N1 pandemic, the pandemic continues to evolve; and

**WHEREAS**, the potential exists for the pandemic to overburden health care resources in some individual communities; and

**WHEREAS**, it may be necessary to utilize unlicensed beds beyond the licensed capacity of hospitals and other facilities, and it may be necessary to utilize unlicensed hospitals, long-term care facilities, and other facilities during this emergency; and

**WHEREAS**, based upon these factors, actions are necessary to address threats to public health and safety, and continue appropriate responses to the H1N1 influenza pandemic.

**NOW, THEREFORE**, I find an emergency exists and order suspension of the licensed bed limit requirements of N.D.C.C. § 23-16-03, N.D.C.C. § 23-16-04, and N.D.C.C. § 23-16-05, relating to licensing hospitals and other health care facilities as applied to any hospital or facility in North Dakota licensed under N.D.C.C. Chapter 23-16 as deemed necessary for certain hospitals and health care facilities determined by the State Health Officer or his designee. The hospital or facility must have reached the limit of its bed capacity because of H1N1 virus cases, and is subject to temporary emergency requirements and quality of care standards established by the State Health Officer or his designee.

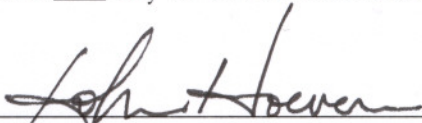
This order is issued upon the following basis and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.

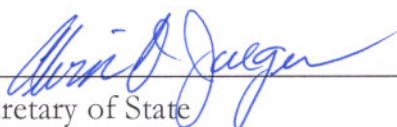
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This Executive Order shall be effective immediately and remain in effect for the duration of the Presidential Emergency Declaration and federal 1135 waiver. Furthermore, this Order is effective only for a hospital or health care facility for the duration of the 1135 waiver granted by the federal Department of Health and Human Services to the local hospital or health care facility.

Executed at Bismarck, North Dakota, this 6<sup>th</sup> day of November 2009.

  
\_\_\_\_\_  
John Hoeven  
Governor

ATTEST:

  
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Secretary of State

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Deputy